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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

California Energy Commission Docket #07-OIIP-01

**JOINT COMMENTS OF ENVIRONMENTAL DEFENSE (ED), THE NATURAL
RESOURCES DEFENSE COUNCIL (NRDC), AND THE UNION OF
CONCERNED SCIENTISTS (UCS) ON THE PROPOSED "INTERIM OPINION
ON REPORTING AND TRACKING OF GREENHOUSE GAS EMISSIONS IN
THE ELECTRICITY SECTOR"**

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I. Introduction and Summary

Environmental Defense (ED), the Natural Resources Defense Council (NRDC), and the Union of Concerned Scientists (UCS) respectfully submit these comments, in accordance with Rules 14.3, 1.9, and 1.10 of the California Public Utilities Commission's (CPUC) Rules of Practice and Procedure, on President Peevey's proposed "Interim Opinion on Reporting and Tracking of Greenhouse Gas Emissions in the Electricity Sector" (Proposed Decision or PD). We also concurrently submit these comments to the California Energy Commission (CEC) in Docket 07-OIIP-01, the CEC's sister proceeding to this CPUC proceeding.

NRDC is a non-profit membership organization with a long-standing interest in minimizing the societal costs of the reliable energy services that a healthy California economy needs. In this proceeding, we focus on representing our more than 124,000 California members' interest in receiving affordable energy services and reducing the environmental impact of California's energy consumption. ED is a leading national nonprofit organization representing more than 500,000 members. Since 1967, ED has

linked science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. UCS is a leading science-based non-profit working for a healthy environment and a safer world. Its Clean Energy Program examines the benefits and costs of the country's energy use and promotes energy solutions that are sustainable both environmentally and economically.

ED/NRDC/UCS commend the two Commissions for their leadership in addressing global warming and reducing greenhouse gas (GHG) emissions through their decisions and actions over the past several years. We generally support the PD's recommendations to the California Air Resources Board (CARB or ARB) on near-term reporting and tracking of GHG emissions for the electricity sector. We urge the CPUC to adopt the PD at its September 6, 2007 meeting and urge the CEC to adopt the same set of recommendations at its September 12, 2007 business meeting. We offer the following comments:

- We support the PD's recommendations that its reporting and tracking protocols apply to GHG emissions during 2008 and that a comprehensive review of the GHG reporting requirements for the electricity sector should be undertaken in 2010.
- We strongly support the PD's call for the development of a regional tracking system.
- We strongly support the PD's recommendation that the Department of Water Resources also be required to report its GHG emissions.
- We strongly support the PD's recommendations to ensure real GHG emission reductions.
- Although annual updating of ex ante default emissions factors will reduce opportunities for gaming compared to less frequent updating, the use of ex post emissions factors still provides stronger policy signals.
- We continue to believe that default emission factor estimates should be designed to encourage retail providers to secure low or zero-emission resources.
- While we agree with the PD's conclusion that ARB is in the best position to develop appropriate verification and compliance requirements, we urge the two Commissions to continue working with ARB to help address any reporting issues unique to the electricity sector.
- Ongoing coordination with other western states is essential to determine mutually agreeable reporting and tracking methods.

- The PD's description of the CAISO integrated forward market should be clarified to state that generators will not be required to bid into that market.

II. We support the PD's recommendations that the reporting and tracking protocols should apply to GHG emissions during 2008 and that a comprehensive review of the GHG reporting requirements for the electricity sector should be undertaken in 2010.

We support the PD's recommendation that the GHG reporting and tracking recommendations it puts forth be adopted as interim, near-term requirements for the electricity sector for 2008, in accordance with CARB's requirement to adopt mandatory reporting regulations by January 1, 2008. As the PD correctly notes, "Modifications may be warranted for future years once the type of GHG regulation for the electricity sector is determined." (p. 4) Since the Commissions are still considering issues such as the appropriate structure of GHG regulations for the electricity sector (i.e., the load-based or "first-seller" approaches), reporting requirements may need to be adjusted in the future for consistency with the eventual GHG regulatory structure. In addition, refinements to the methodology may be warranted over time.

Therefore, we also strongly support the PD's recommendation "that a comprehensive review of GHG reporting requirements for the electricity sector be undertaken in 2010, so that updated reporting requirements can be in place prior to the commencement of the GHG regulatory scheme in 2012." (p. 4) We support the PD's recommendation that "ARB undertake a review early enough to ensure that any revisions will be effective during the 2011 year," (p. 39) prior to the first compliance year in 2012. We encourage the Commissions to work closely with CARB to undertake this comprehensive review in 2010.

III. We strongly support the PD's call for the development of a regional tracking system.

We strongly support the PD's call for "ARB to lead a regional effort to develop and implement" (p. 5) a regional reporting and tracking system to improve the accuracy of GHG reporting, as was recommended by many parties in this proceeding. As the PD

notes, “The reporting protocol we recommend would aid ARB and the reporting entities during the interim period until a regional reporting and tracking system can be developed and implemented.” (p. 42) We encourage CARB to act quickly to coordinate with other western states to develop a system that can be operational by January 1, 2011, and to leverage the CEC’s expertise with the Western Renewable Energy Generation Information System (WREGIS) in advancing this process.

IV. The PD correctly recommends that the Department of Water Resources be required to report its GHG emissions.

We strongly support the PD’s recommendation that the reporting requirements for the electricity sector also apply to the Department of Water Resources (DWR), “as well as any other state agencies that generate or procure power to meet their electricity needs.” (p. 9) As DWR is a large consumer of electricity in California, and contracts directly with marketers, generators, and retail providers to meet a portion of its load, it is important that the reporting requirements capture the GHG contributions associated with DWR’s (and any other state agency’s) electricity consumption.

V. We strongly support the PD’s recommendations to ensure real GHG emission reductions.

We share the PD’s concern about the “several potential types of contractual arrangements that could be used to show ‘paper’ emission reductions, but which would not actually reduce GHG emissions.” (p. 14) We concur with the PD’s recommendation “that ARB adopt conditions that would prevent the attribution to retail providers of GHG emission reductions that are not real” and agree that “such rules are within the scope of the statutory authority” provided in AB 32 (p. 15). We support the PD’s recommendations to limit new contracts with existing resources to ensure that GHG emission reductions reported by retail providers constitute real reductions that will help contribute to meeting the state’s mandatory GHG emissions limit.

VI. Although annual updating of ex ante default emissions factors will reduce opportunities for gaming compared to less frequent updating, the use of ex post emissions factors still provides stronger policy signals.

The PD recommends that default emission factors be calculated on an ex ante basis (p. 32). We remain concerned that ex ante default emission factors would send weaker and less appropriate policy signals than ex post assignment of default emission factors. Assigning default emissions rates using only historical information that does not necessarily reflect the actual resource mix of an unspecified pool may create incentives for retail providers to use ex-ante default emissions rates to achieve “paper” GHG emissions reductions by purchasing unspecified power from sources with emissions that exceed the default rate. However, updating the default emissions factors on an annual basis, as the PD recommends (p. 32), will partly mitigate these concerns. Annual updates will provide more frequent feedback to retail providers about the GHG emissions consequences of the investments they make, and reduce the temporal window of opportunity for the gaming behavior described above.

VII. Default emission factor estimates should be designed to incentivize retail providers to secure low or zero-emission resources.

We agree with the staff proposal (June 12, 2007, p. 8) that a reporting protocol should be designed to incentivize overall reductions in GHG emissions and believe that the adoption of high default emission factors for unspecified regional resources would achieve this end. While we agree with the PD (p. 30) that accurate reporting is a crucial goal, we believe that setting conservative emission estimates for unspecified resources would further, rather than hinder, this goal.

We do not suggest that the Commission set “artificially high” default emission factors (PD, p. 30). Rather, we believe the Commission should consider adopting default emission factors based on conservative calculations of the emissions associated with generation resources in a particular region or market pool. This will help to discourage high-emitting resources from “hiding behind” the default emissions factors by characterizing themselves as unspecified resources. Furthermore, we anticipate that conservatively estimated default emission factors are likely to be more consistent with the

emissions attributed to imports once a regional tracking and reporting system is in place. As other states in the region participate in this process, we expect these entities to make claims on cleaner out-of-state generation, which will effectively increase the emissions burden associated with imported power.

We also believe that conservatively estimated default emission factors will incentivize retail providers to specify their sources of power, thus furthering the goal of accuracy in reporting and tracking emissions data. Finally, the use of conservative emission estimates for default emissions factors for unspecified resources reduces contract shuffling opportunities and encourages retail providers to “beat the average” by seeking out low- or zero-emission power sources.

VIII. While we agree with the PD’s conclusion that ARB is in the best position to develop appropriate verification and compliance requirements, we urge the two Commissions to continue working with ARB to help address any reporting issues unique to the electricity sector.

To function effectively, the reporting protocol must have a strong compliance mechanism. We agree with the PD that verification of reported emissions data is vital to any credible tracking system (p. 37). Consistent verification of reported emissions will instill participant confidence in the accuracy of the overall system and will help to ensure a high degree of environmental integrity.

The PD notes that ARB has proposed a third-party certification approach to emissions reporting verification (p. 38). While we agree that ARB is best suited to develop the appropriate verification requirements, we urge the CPUC and the CEC to collaborate with ARB to devise a verification and compliance system for the electricity sector that provides the necessary incentives to accurately and fully report all required emissions data. Given the likely complexity of such a system, it is essential to develop and implement detailed accounting methodologies, verification standards, and protocols for government oversight of affected companies and third party auditors. Since ARB is proceeding with a sector-specific approach for the electricity sector, it will be valuable for the two Commissions to continue contributing their expertise and experience in this area throughout this process.

IX. Ongoing coordination with other western states is essential to determine mutually agreeable reporting and tracking methods.

The PD adjusted the default emissions factor for Northwest unspecified imports that was originally proposed by joint staff in response to concerns raised by Oregon and Washington. We encourage similar ongoing coordination with these and other western states to achieve mutually agreeable GHG reporting and tracking methods.

X. The PD's description of the CAISO integrated forward market should be clarified to state that generators will not be required to bid into that market.

The PD states, "In the forthcoming CAISO integrated forward market, most generators providing power to retail providers in the CAISO territory *will have to bid into the market*, even sources owned by or under contract to the retail providers." (p. 23-24, emphasis added) The PD appears to overlook the fact that generators could elect to self-schedule instead of bidding into the integrated forward market. As Kyle Hoffman of the CAISO explained at the April 12, 2007 reporting and tracking workshop:

...[O]ne feature of our markets that will still be available just as it is today is source-to-sink power schedules. Just as today if a load-serving entity contracts with a specific resource or an out-of-state resource, you want to have that power delivered from that resource directly to your load. You schedule it today. It is 100 percent forward schedule. You will have that same option under MRTU where you can schedule power from an in-state resource and an out-of-state resource, a self schedule. You are not compelled to participate in that day-ahead forward energy market.¹

As such, we recommend that the above sentence in the PD be clarified to reflect that participation in the integrated forward market is elective and not required of all generators.

XI. Conclusion

ED/NRDC/UCS commend the joint staff for their extensive efforts in developing the reporting protocol, and we urge the Commission to adopt the PD at its September 6,

¹ April 12, 2007 Workshop Transcript, p. 80.

2007 meeting, and we also urge the CEC to adopt the same set of recommendations at their September 12, 2007 business meeting, with the modifications described herein.

Dated: August 24, 2007

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **“Joint Comments of Environmental Defense (ED), the Natural Resources Defense Council (NRDC), and the Union of Concerned Scientists (UCS) on the Proposed ‘Interim Opinion on Reporting and Tracking of Greenhouse Gas Emissions in the Electricity Sector’” in the matter of R.06-04-009** to all known parties of record in this proceeding by delivering a copy via email or by mailing a copy properly addressed with first class postage prepaid.

Executed on August 24, 2007 at San Francisco, California.



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